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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/767,953	03/27/2001	Seung Chan Bang	P63083US1	2843	
7	7590 03/14/2002				
JACOBSON, PRICE, HOLMAN & STERN, LLC THE JENIFER BUILDING 400 SEVENTH STREET, N.W.			EXAMINER		
			GHAYOUR, MOHAMMAD H		
WASHINGTO	N, DC 20004	ART UNIT	PAPER NUMBER		
			2634	7	
			DATE MAILED: 03/14/2002	/	

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No. Applicant(s		Applicant(s)				
Office Action Summary		09/767,953		BANG ET AL.				
		Examiner		Art Unit				
		Mohammad H G	Shayour	2634				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address								
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status								
1)⊠	Responsive to communication(s) filed on 24 J	<u>lanuary 2001</u> .						
2a) <u></u> □	This action is FINAL. 2b)⊠ Thi	is action is non-f	īnal.					
3)	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims								
, —	Claim(s) 41-97 is/are pending in the applicatio		ration					
4a) Of the above claim(s) is/are withdrawn from consideration.								
5) Claim(s) is/are allowed.								
•	Claim(s) <u>41-97</u> is/are rejected.							
•	Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/or election requirement.  Application Papers								
9) The specification is objected to by the Examiner.								
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.								
_	Applicant may not request that any objection to the							
11) The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.								
If approved, corrected drawings are required in reply to this Office action.								
12) The oath or declaration is objected to by the Examiner.								
Priority under 35 U.S.C. §§ 119 and 120								
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).								
a)⊠ All b)□ Some * c)□ None of:								
1. Certified copies of the priority documents have been received.								
2. Certified copies of the priority documents have been received in Application No. 09/162,764.								
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>								
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).								
<ul> <li>a) The translation of the foreign language provisional application has been received.</li> <li>15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</li> </ul>								
Attachment(s)								
1) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u>	4)	Notice of Informal R	(PTO-413) Paper No(s) Patent Application (PTO-				

U.S. Patent and Trademark Office PTO-326 (Rev. 04-01)



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### **DETAILED ACTION**

#### Information Disclosure Statement

The information disclosure statement submitted on 3/27/2001 has been considered and made of record by the examiner.

# Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 58 and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claims 58 and 59, these two claims recite a method, whereas claim 57 which these two claims are dependent from is directed to an apparatus. Therefore, claims 58 and 59 are hybrid claims and as such, considered indefinite.

## Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).



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Claims 41-97 are rejected under the judicially created doctrine of double patenting over claims 1-40 of U. S. Patent No. 6,222,873 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: claims 41-97 in the instant application are broader versions of the claims 1-40 recited in the U.S. Patent No. 6,222,873, that is, all of the elements in claims 41-97 in this instant application are encompassed by the limitations in claims 1-40 of the U.S. Patent.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad H Ghayour whose telephone number is (703) 306-3034. The examiner can normally be reached on M-TH, 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (703) 305-4714. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Mohammad Ghayour March 7, 2002

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